

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : PLESTENJAK, J.

Serial No. : 09/554,032

Filed : May 4, 2000

For : A Drying Device

Examiner : N/A

Art Unit : N/A

FAX RECEIVED

DEC 09 2002

PETITIONS OFFICE

ATTY DOCKET: 204,509

August 1, 2002

DECLARATION OF THOMAS E. SPATH
IN SUPPORT OF PETITION TO REVIVE ABANDONED APPLICATION

Thomas E. Spath declares as follows:

1. I am the attorney principally responsible for the prosecution of this application and have been actively engaged in practice before the Patent Office for over 30 years.
2. This application is the U.S. national phase of a PCT filing initiated outside of the United States. During a recent review of the status of this application, it was determined that no copy of the official filing receipt had been received. It was further determined that the application had been filed with an unsigned declaration. The file included an original executed declaration which had been sent to this firm after the U.S. national phase filing date. The original executed declaration is submitted with this Petition to Revive.

3. A telephone inquiry was made by me to the PTC help desk and also to Art Unit's central files. I was informed that a Notice of Missing Parts had in fact been sent on June 19, 2000. I have reviewed this firm's docketing records and spoken with the docket clerks and am confident that the Notification of Missing Requirements and Notification of a Defective Oath or Declaration forms relating to this application were not received by this firm.

4. Prior to the filing of this application, this firm has utilized a computer program-based docketing system that is licensed under the trademark PATTSY. A records include no entry for missing requirements indicating that the original communication was not delivered by the postal service. In accordance with the routine processing of official communications, a mailroom employee opens the envelopes but does not remove the contents; thereafter, the incoming PTO mail is preliminarily examined to separate patent from trademark-related communications; thereafter the patent-related communications are delivered to the patent practice group along with all other patent-related mail and other communications; a preliminary inspection of the contents is made by the reviewing attorney merely for the purpose of confirming that only patent-related communications are included; thereafter, the official communications, in their original envelopes, are delivered to the docket clerks for date-stamping, docketing as appropriate and association with the related file and delivery to the responsible attorney.

Since this firm is responsible for a substantial number of pending applications and maintenance fee payments for issued patents, official communications from the PTO are received essentially on a daily basis and processed routinely. Based upon the absence of any

entry in the docket of a missing requirements notice, as well as the absence of such a notification from the file, I can only conclude that the notification was mis-delivered or lost by the U.S. Postal Service.

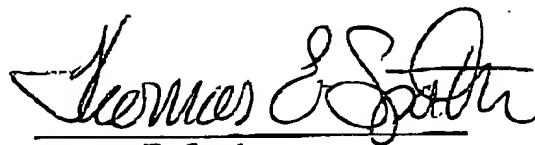
5. During my recent telephone conference with office personnel concerning status of this application, it was noted that a Notice of Abandonment had not been timely issued by the Office. I was also informed that no communications relating to the revival of the application should be sent by our firm until the Notice of Abandonment had been received. As indicated on the attached copy, the Notice of Abandonment was not mailed from the office until July 12, 2002.

6. In my own experience, there have been several other occasions, particularly within the last four or five years, that other communications apparently issued by the office in connection with other pending applications have not reached this law firm. In this regard, I ask the reviewing examiner or officer to take judicial notice of the number of petitions submitted for revival that are based upon similar factual allegations that communications from the office failed to reach the applicant or its representative.

7. Based upon the above facts, it is apparent that the failure to respond to the outstanding office action was unavoidable, since the original action was never delivered to this firm by the U.S. Postal Service.

I understand that any false statements and the like so made herein are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application or any registration issuing thereon, and I declare that the facts set forth above are true, and that all statements made of my own knowledge are true and all statements made on information and belief are believed to be true.

Date: August 1, 2002



Thomas E. Spath
Reg. No. 25,928